

Appl. No. 10/731,452
Amdt. Dated October 16, 2006
Reply to Office Action of July 31, 2006

VIA FAX: (571) 273-8300

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REMARKS / ARGUMENTS

A. Generally

Claims 1-3, 5-8, and 25-28 are pending in this application. Claim 4 has been canceled. Claims 1, 5, and 25-28 are currently amended.

Applicant appreciates the courtesy extended to Applicant's representative during the telephone interview held October 5, 2006. During the interview, Examiner confirmed that the phrase "homopolymer of styrenes" is generic and includes styrene and α -methylstyrene homopolymer.

B. Claim Rejection

In the Office Action, the Examiner has rejected claims 1-3, 5-8, 25-28 under 35 U.S.C. § 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner has indicated that claims 1-3, 5-8, 25 and 27-28 would be allowable if rewritten or amended to overcome this rejection.

Claims 1, 5, 25, and 26 have been amended to more particularly define Applicant's invention in light of the prior art of record. Claims 1, 25, and 26 have been amended to recite that the core layer comprises from 70-75% homopolymer of styrenes. Basis for this amendment can be found at least in paragraphs 21 and 61 of the present specification. Claim 5 has been amended to depend from claim 1.

The Examiner stated that the "upper limit of the composition of the core layer requiring 90% by weight of the layer styrene homopolymer" renders the claims indefinite because a total of 115% is achieved when this amount is added to the lower limits of the other components in the layer. As noted above, Applicant has amended Claims 1, 25, and 26 to recite that the upper limit of the homopolymer in the core polystyrenic layer is 75%. Basis for this amendment can be found at least in paragraph 61 of the specification.

The Examiner found that " α -methylstyrene homopolymer" recited in claim 27 is indefinite because claim 1 requires the polystyrenic layer to be made of styrene homopolymer.

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The Examiner maintains that α -methylstyrene homopolymer is not a styrene homopolymer. The Examiner further found that the phrase "core polystyrenic layer comprises styrene" recited in claim 28 is confusing because claim 1 requires that the polystyrenic layer be made of styrene homopolymer. The Examiner points out, however, that the term "styrenes" as opposed to "styrene" can be used in a generic sense. Since, as noted by the Examiner, "styrenes" include styrene, α -methylstyrene, and ring substituted styrenes, then a homopolymer of "styrenes" could α -methylstyrene and styrene as recited in claims 27 and 28 respectively. Thus, Applicant has further amended claim 1 to specify that the core polystyrenic layer comprises "homopolymer of styrenes". Accordingly, Applicant respectfully submits that this claim is now in an allowable form and requests the Examiner to withdraw this rejection.

The Examiner rejected Claim 26 under 35 U.S.C. 103(a) as being unpatentable over Childress (U.S. Patent No. 6,479,138). Applicant respectfully submits that present claim 26, as amended, overcomes the Examiner's rejection. Applicant notes that to establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). MPEP §2143.03, 8th Ed. (Rev. 2, 2004). Further, "[o]bviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art." MPEP §2143.01, 8th Ed. (Rev. 2, 2004). Applicant respectfully points out claim 26, as currently amended, specifies that the core layer comprises from 70% to 75% homopolymer of styrenes. Childress, on the other hand, teaches a linear random alpha-olefin/vinyl aromatic or ethylene copolymer in the core layer. Childress does not disclose a core layer comprising homopolymer of styrenes as recited in the presently amended claims. Furthermore, there is no teaching or direction to modify Childress to arrive at the presently claimed invention. Accordingly, Applicant respectfully requests the Examiner to withdraw this rejection.

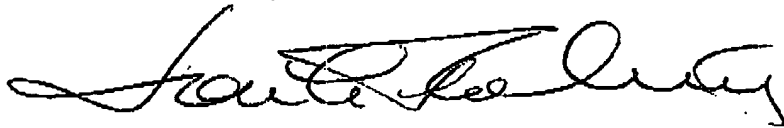
Applicant submits that based on the foregoing, claims 1-3, 5-8 and 25-28 are allowable. Applicant further requests that a timely Notice of Allowance be issued in this case.

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Should any further questions arise concerning this application or in the event the above amendments do not place the application in condition for allowance, Applicant respectfully requests an interview with the examiner and the examiner's supervisor prior to any new office action relating to the present Application. Attorney for the Applicant may be reached at the number listed below.

Respectfully Submitted,



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